



**Medical Quality Assurance Commission
July 11, 2008
Business Meeting Minutes**

Medical Commission Members

Richard Brantner, MD
Athalia Clower, PA-C
Frederick Dore, MD
William Gotthold, MD
Ellen Harder, PA-C
Frank Hensley, Public Member
Judith Page, Public Member-
Linda Ruiz, Public Member
Anjan Sen, MD
Cabell Tennis, Chair

Les Burger, MD – 2nd Vice-Chair
Bruce Cullen, MD
Theresa Elders, Public Member
Thomas Green, MD
Susan Harvey, MD
Hampton Irwin, MD
Anthony Robins, MD
Samuel Selinger, MD – 1st Vice-Chair
Judy Tobin, Public Member

Department of Health Staff

Maryella Jansen, Interim Executive Director
Beverly Teeter, Acting Deputy Executive Director
George Heye, MD, Medical Consultant
Erin Obenland, Disciplinary Manager
Jim McLaughlin, Staff Attorney
Mike Bahn, Staff Attorney
Peter Harris, Staff Attorney

Dani Newman, Compliance Officer
Robin Burkhart, Admin Assistant
Cindy Hamilton, Compliance Officer
Mike Farrell, Staff Attorney
Larry Berg, Staff Attorney
Joe Mihelich, Office Assistant

Others in Attendance

Mike Tribble, AAG
Kim O'Neal, AAG

BUSINESS MEETING

CALL TO ORDER

Commission Chair Cabell Tennis, J.D. called the meeting of Washington State Medical Quality Assurance Commission to order at 8:00 a.m. on July 11, 2008, at The Heathman Lodge, 7801 NE Greenwood Drive, Vancouver, Washington 98662

1.0

CHAIR REPORT

The Chair began his report by stating this was the first meeting of the Commission in its new era and a new beginning for the Pilot Project starting July 1st. He reported that he and Dr. Burger met with the staff for a Pilot Project Kick-Off on July 2, 2008. He reported the excitement and

energy in the room was powerful. He also reported staff's positive comments on Commission members attending.

The Chair reported on the enormous amount of work the transition team has completed to begin the Pilot Project. He commended Maryella Jansen, Interim Executive Director, for her great leadership and Beverly Teeter, Acting Deputy Executive Director; George Heye, MD; Jim Smith, Chief Investigator; Mike Farrell, Staff Attorney; as well as the Commission members: Dr. Selinger, Dr. Burger, Judy Tobin, Frank Hensley, Melissa Burke-Cain, AAG and himself.

The Chair reported his appreciation of the great support from within the Department of Health mentioning Assistant Secretary Karen Jensen, , Human Resource Director Katherine Deuel, Assistant Secretary of Financial Services Lois Speelman, Deputy Assistant Secretary Sam Marshall, Christina Hulet from the Governor's staff and members of the Washington State Medical Association to include John Arveson, Len Eddinger and Tim Layton; they have provided great support to this pilot project.

The Chair asked the question, "How did we get here?" He stated after years and years of tension between the Commission and the Department of Health; much like a family in dispute wanting the other to change; the change happened. That is often how families get healed. The Chair stated change doesn't happen by one changing the other, but by one changing itself. The Commission began to reshape itself into the identity and the authority given to them by the legislature. The Commission started to take care of its own business by creating multiple task groups to work on the various aspect of the Commission's work, such as Budget, JOA, By-Laws, Sanctions Guidelines, OBS, GMAP, and Non-Surgical Medical Cosmetic Procedures for fleshing out who we, the Commission, needs to be and who the Commission is now. The Chair reminded the Commission that they had a role to play in the change and will continue to have a role in making the pilot project flourish.

The Chair stated the Commission staff is a gold mine; with the knowledge, experience and resources for the pilot project. This is where the Commission has the deep investment and value, and also because of the members of the Commission. He stated it is the responsibility and the work of the leadership together with staff leadership to enhance and support that gold mine by positive affirmation. The Chair stated he believes that the Commission has the power to do that.

2.0

CONSENT AGENDA

The Consent agenda contained the following items for approval:

2.1 Agenda for July 11, 2008

- 2.2 Minutes from May 23, 2008, business meeting
- 2.3 Ratification of the licenses issued to Physicians, Limited Physicians and Physician Assistants from May 23, 2008 through July 10, 2008.

MOTION: The Chair entertained a motion to approve the Consent Agenda as written. The motioned was seconded and approved.

EXECUTIVE SESSION

The Commission went into executive session at 8:10 a.m. to discuss personal and legal issues with their Assistant Attorney General. The Commission reconvened at 8:30 a.m.

3.0 COMMITTEE REPORTS

- 3.1 **Office Based Surgery Draft Rule Report**
Bruce Cullen, MD reported he had been appointed as the Chair of the OBS Task Group. Dr. Cullen stated that the group will review the proposed language and the written comments that have been received; the group hopes to have a new draft ready to send to the public for comments before the October meeting.
- 3.2 **Non-Surgical Medical Cosmetic Procedures Draft Rule Report**
Dr. Selinger reported on the progress of the Non-Surgical Medical Cosmetic Procedure draft rules. He updated the Commission on some areas of change in the proposed rules. He also reported that another revision of the draft rules will be sent out to the public for comments within the next few weeks.
- 3.3 **By-Laws**
Les Burger, MD reported that he and Assistant Attorney General Melissa Burke-Cain have been charged with reviewing the Commission's By-Laws. He reported that he will be working with Melissa Burke-Cain on draft revisions to the Commission's By-Laws which are similar to the Board of Health's by-laws. He indicated that the plan is to bring a revised version to the August meeting.
- 3.4 **Podiatry Medical Board Policy on Infection Control**
Beverly Teeter, Acting Deputy Executive Director reported on proposed revisions, for information only, of the Podiatry Medical Board's Policy on Infection Control. She indicated that the Commission does not have any policy or guideline regarding infection control and may wish to consider this subject in the future.

4.0 REPORTS

- 4.1 **Finance – Les Burger, MD**
Dr. Burger asked to defer reporting on the Decision Package as the committee is still gather information and drafting language. Dr. Burger

stated he was not sure how to get the Commission's approval. Ms Jansen suggested that the Commission have a teleconference call on the Decision Package for 2009-2011 for consideration and vote. Linda Ruiz, Public Member commended Ms. Jansen and Ms Teeter for the fabulous job of supporting the finance committee by getting the documents together and doing the ground work on the core budget as the Finance committee developed recommendations for the Commission. She indicated that there still needs to be a greater discussion with the Department on the indirect charges and what services are provided. That will make a difference in what kind of decision the Commission needs. Dr. Burger reported the 2009-2011 Decision Package needs to go to the Department's Budget office by August 1st and will be forwarded unchanged to the Office of Financial Management.

MOTION: The Chair entertained a motion to have a conference call with at least a quorum of the Commission for a final vote on the proposed 2009-2011 Decision Package.

- 4.2 Memorandum of Understanding- Frank Hensley, Public Member**
Frank Hensley, Public Member first acknowledged and thanked everyone for their help and support on the ever-changing and evolving document, especially Ms. Jansen, Ms. Teeter and Melissa Burke-Cain, AAG. He reported that the memorandum of understanding included three over all goals: 1) Ensure the Commission has full control over its budget. 2) Clearly establish, enhance and project the identity of the Commission. 3) Establish a new found authority. The Commission will work within the Department's infrastructure by using human resources, facilities, contracting and, tentatively, to work with the Integrated Licensure and Regulatory System.

Mr. Hensley reported that the Memorandum of Understanding (MOU) had been submitted to Karen Jensen, Acting Assistant Secretary on June 23, 2008. Ms Jensen has provided a copy to the Secretary who has some reservations about the document; the Commission has not heard anything back from the Department on the MOU as of this date. Dr. Burger suggested if there is no response from the Secretary by the end of July, that a letter be sent to Mary Selecky asking for a response. Dr. Selinger added that the letter should state that the Commission is very pleased with the cooperation and assistance from Karen Jensen, Acting Assistant Secretary and other staff within the Department to help get important business processes in place.

MOTION: The Chair entertained a motion that if by the end of the month there has been no resolution to the MOU that the Chair Elect will send a letter to Secretary Mary Selecky asking for response to the MOU regarding the elements she is agrees to, indicating where she has concerns

and suggesting possible alternatives. The motion was seconded and approved.

4.3 Performance Measures GMAP.

Mike Farrell, Staff Attorney reported on a meeting with Steve Hodgson, Performance and Data Manager from DOH who is responsible for the GMAP Data. He indicated that the Commission needs to decide what data is needed. He is confident the data is in the ILRS system and can be retrieved. The Chair indicated that we also want to measure and report improvements not just disciplinary issues.

4.4 Sanction Guidelines Committee –Judy Tobin, Public Member

Judy Tobin indicated that Peter Harris, Staff Attorney has done a great job in revising the documents recommended by the committee that was used by at the meetings with other Department of Health boards and commissions regarding Sanctioning Schedules. Ms. Tobin reported that the tier adjuster the Commission felt was important was removed. Mr. Harris reported he too was concerned that the tier adjuster had been removed because this is an important tool the Commission will use often.

Ms. Tobin reported that the August 6 meeting should be the last meeting with the other boards and commissions. Next step will come from the Department of Health staff who will consider the sanction schedules. Dr. Selinger expressed concerns that if the tier adjusters were removed, it will be difficult for the Commission to stay within the guidelines.

4.5 Washington Physician Health Program (WPHP) Task Group

Ms. Jansen reported the Commission is mandated by statute to enter into a contractual agreement with an entity that can provide impaired provider services. She reported that the WPHP has been under a sole source contract for many years. She reported that the internal auditor for DOH will be issuing a report on the WPHP contract. The current WPHP contract with DOH includes other professions such as the Dental Commission and the Osteopathic Board of Medicine, She reported that the transition task group is considering a recommendation that the Department go forward with a sole source contract. The Chair stated the contract should be worked out between the Commission and WPHP.

5.0 OTHER BUSINESS

5.1 2008 Election for the Chair, 1st Vice-Chair and 2nd Vice-Chair.

Rick Dore, MD moved to accept the slate of officers as follows: Samuel Selinger, MD as Chair, Les Burger, MD as 1st Vice-Chair and Judy Tobin, Public Member as 2nd Vice-Chair.

MOTION: The Chair entertained the motion for Dr. Sam Selinger as Chair, Dr. Les Burger as 1st Vice-Chair and Judy Tobin, Public Member as

2nd Vice-Chair. The motion was moved, seconded and the vote was unanimous.

5.2 Interview Process and Selection Process for Legal Manager

Ms. Jansen reported on the process for the recruitment of the Legal Manager. She indicated that interviews were held with three candidates on July 10, 2008. She reported the selected candidate will be announced soon.

5.3 Medical Commission Transition into Pilot Projects Process and Accomplishments.

Ms. Jansen reported on the Transition Team's progress and accomplishments. Ms. Jansen publicly thanked those that assisted with the transition. She thanked Robin Burkhart for her tremendous help during the seamless transition. She reported all cases have been transferred to the Commission investigators and legal staff.. Dr. Burger stated that Ms Jansen has done an incredible job in leading the transition team. She thanked the Commission members for their support and involvement.

5.4 Report on the Meeting with the Nursing Quality Care Commission

The Chair reported on the good meeting with the Nursing Commission leadership to discuss the transition. He stated the meeting was informational and he found that there are great similarities in the challenges with the transition and the need to continue building a relationship with DOH. Additional meetings are planned for the future.

5.5 Delegation of Signature Authority

The Commission considered a revised version of signature authority to allow staff to conduct day-to-day business and application approvals. Ms. Teeter recommended approving the revised version of the signature authority.

MOTION: The Chair entertained the motion to approve the revised Delegation of Signature Authority for staff. The motion was seconded and approved. Ms. Teeter asked for a change in the motion to note that the delegation is for a Summary Action to a Summary Motion. The motion was seconded and approved.

5.6 2007-2008 HSQA Disciplinary Orders Using Disciplinary Sanction Guidelines

Ms. Tobin spoke to the report indicating that she is concerned that many times the analysis of the Commission's orders for compliance with the sanction guidelines does not reflect the intent of the order. She indicated that the orders need to be written more clearly to reflect the intent of the Commission. This topic will be discussed at the workshop

5.7 Update of Recruitment for Executive Director.

Ms. Jansen reported that the recruitment announcement has been sent out as a national search. Applications will be received during the month of July, screening will begin after July 31, 2008. To date, several applications have been submitted; the interviews will be scheduled at the August meeting.

5.8 Workshop Agenda August 27-30, 2008.

Ms. Teeter reported that the transition team is developing an agenda that will focus on several business processes of the Commission. Through an open discussion process the Commission will look at potential efficiencies in order to streamline the way business is conducted.

5.9 2007 Performance Audit Responses

The Chair deferred this issue.

5.10 Status of the Governor Appointment Packet Submitted.

Ms Teeter reported that three new members have been appointed to the Commission. Dr. Gotthold had been reappointed. She reported that Dr. Bruce Andison from Vancouver is an OB/GYN; Dr. Mark Johnson from Mount Vernon is a General Surgeon; and Dr. Mimi Pattison from University Place is a Palliative Care physician. Dr. Cullen asked about the selection of the Commission members. Ms. Teeter informed the Commission on the appointment process. In addition, there was discussion on the possibility of increasing the Pro-tem members for different specialties.

5.11 2009-2011 Decision Packages

Defer to the next meeting.

6.0 MEMBERS REPORTS

6.1 Washington Pain Forum, June 6, 2008 – Dr. Anjan Sen
Dr. Sen reported his attendance on the Washington Pain Forum. He indicated the main discussion was on the maintaining adequate treatment for patients and at the same time to avoid substance abuse issues.

6.2 External Poisoning Workshop, June 9, 2008 – Dr. Sen and Dr. Burger
Dr. Burger reported on their attendance at the DOH workgroup on unintentional poisoning that Jennifer Sabel, DOH is the lead. There will be ongoing meetings.

7.0 STAFF REPORTS

7.1 Interim Executive Director

Ms. Jansen had nothing more to report.

7.2 Acting Deputy Executive Director

Nothing more to report

7.3 Assistant Attorney General

Mike Tribble, AAG had nothing more to report.

7.4 Disciplinary Manager

Erin Obenland reported on the show-cause process that is being developed at this time. She indicated it will be a quick turn-around for the hearings. Kim O'Neal, AAG reported that it will be similar to a summary action process in that the Commission panel will review documents and decide whether or not the summary action stays in place or should be removed. Logistics will be the issue. Dr. Cullen suggested using video conferencing or some type of "Meet Me call" for the show-cause hearing.

7.5 Medical Consultant

Dr. Heye reported that at the suggestion of Dr. Oreskovich, WPHP will be setting up a monthly meeting with the Commission staff.

Dr. Heye also stated that Ms. Jansen and Ms. Teeter are the heart of the transition for the Pilot Project with all the work they do, plus the additional work created by 4SHB1103.

8.0

ADJOURNMENT

Dr. Selinger closed the meeting with a special presentation to Dr. Irwin for all the work he has done for the State of Washington. In addition, he wanted to recognize the public member who has focused on the medical professions and served as Chair for the past two years. Dr. Selinger presented Cabell Tennis, J.D with a glass flame that represents the flame he ignited in the Commission and all of us who had a desire for transparency. In the center of the flame is the heart of the Band of Brothers and Sisters. Thank you.

The meeting adjourned at 10:20 a.m.

Submitted by

Beverly A. Teeter, Acting Deputy Executive Director

Samuel Selinger, MD, Chair
Medical Quality Assurance Commission

Approved August 29, 2008